

California Monument Association
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ORIGINAL

August 5, 1999

Secretary, Federal Trade Commission
Room H-159
600 Pennsylvania Avenue, N. W.
Washington, D. C. 20580

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Re: "16 CFR Part 453"

Dear Sir:

The California Monument Association is comprised of retail and wholesale monument dealers, together with suppliers and manufacturers providing goods and services related to the "death care industry", throughout the State of California.

We are aware of the position of the Monument Builders of North America favoring expansion of the "Funeral Rule" to include all segments of the industry - funeral, cemetery and memorialization.

We support the position of the Monument Builders of North America and urge the expansion of the current "Funeral Rule".

Our Association is presently working with the California Department of Consumer Affairs with the hope that it will seek the enactment of legislation which would result in the consumer receiving wider notice that memorials are available from sources other than the cemeteries.

The California Bill, which we are proposing, would provide for such information to be highlighted in the purchase contract between the cemetery and the lot owner.

In addition, we would propose the "Rule" be expanded to include that:

1. Cemeteries could not tie in the purchase of a memorial with its installation - that outside installation may be had notwithstanding the source of the memorial, subject only to reasonable rules and regulations with respect to uniformity, size, quality, etc. Federal courts have already addressed the subject, see: Moore v. Jas. H. Matthews (1977-9th Circ) 550 F. 2d 1207; Rosborough Monument Co. v. Memorial Park Cemetery Association, et al (1984-8th Circ.) 736 F 2d. 441.

2. Fees, cemetery rules and installation guidelines be written and available to consumer and monument dealers, upon request.

3. Care of memorials and grave spaces not be conditioned on the purchase of the memorial from the cemetery.

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4. Responsibility for damage to memorials not be conditioned on the purchase of the memorial from the cemetery.

I am submitting these comments as the current president of our Association but I have received from our immediate past-president his "Draft of Possible Comments" which I believe to be so well done that I am taking the liberty of enclosing it and respectfully incorporating it as a portion of the "Comment" of the California Monument Association.

Very truly yours

CALIFORNIA MONUMENT ASSOCIATION

By: David Simich

David Simich, President

DS/
encl.

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To: David Simich, President, California Monument Association

From: Jed Hendrickson

Re: Draft of possible comments for the California Monument Association on the FTC's Review of the Funeral Rule - 16CFR Part 453

Date: August 2, 1999

This comment is filed by The California Monument Association (CMA), a trade organization of monument builders and sellers in the State of California.

We support the expansion of the Funeral Rule to encompass the entire death care industry. Specifically, we believe that the scope of the Rule should be expanded so that it becomes a "Death Care Rule," providing separate rules, definitions and regulations for each segment of the funeral-cemetery-monument industries. This would benefit consumers and should be an integral part of any expansion of the Rule.

CMA supports the position taken by Monument Builders of North America (MBNA) regarding expansion to cover all segments of the death care industry. MBNA is the national voice of the monument industry and is seeking to protect the consumer. MBNA also supports memorialization by independent monument builders, such as those in CMA.

Many cemeteries require that a monument or marker, or the foundation for such items, can only be installed by the cemetery, regardless of where the monument or marker was purchased. These cemeteries have insulated themselves from competition by monument retailers, enables cemeteries to charge consumers higher prices for installation services.

Other cemeteries have created anti-competitive practices aimed at hindering consumer access to competition by monument retailers. They impose fees or unreasonable rules in connection with installations by monument retailers, which have the effect of forcing the consumer to buy from the cemetery. These fees include inspection fees, road use fees, installation fees, and post-inspection fees. We believe that "tying" of monument or marker installations to the cemetery hurts the consumer.

Another frequent problem, particularly at certain religious cemeteries, is that cemetery staff advises lot owners or monument buyers that the cemetery is not responsible for any damage to a monument or marker if the monument is not purchased from the cemetery. This regardless of the cause -- even if the damage is caused by cemetery staff. This tactic is very effective because consumers are worried that their monument, markers or gravesites will not be properly maintained. Consumers do not want to be caught in this so they will order monuments from the cemetery (and even cancel pending orders with monument retailers). This has the effect of forcing the consumer to purchase from the cemetery.

(1)

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Failure to provide information is also a serious problem. Cemeteries usually have written rules and regulations. These rules cover such items as limitations on the size or type of markers, monuments or other memorials permitted, perpetual care procedures and requirements for installing memorials, including any applicable fees. These rules are subject to change without notice to lot owners or competing retailers.

Frequently these rules are not available in writing to consumers or monument retailers. By not disclosing these rules, cemeteries it makes it difficult for consumers to shop for a monument or marker elsewhere. This makes it very difficult for independent monument retailers to overcome the built-in advantage that cemeteries have in selling monuments. Monument retailers are often unable to quote an installation or foundation fee because the cemetery will not disclose this information. Sometimes, monument retailers are told of increases in cemetery charges after they have already quoted to consumers based on previously announced charges. The retailers must re-quote or absorb the cemetery's price increase.

Consumers are hurt by these practices. They often pay higher prices for monuments and markers and especially for installation. Their choice of memorialization is thereby limited. We urge the FTC to expand the scope of the Funeral Rule and make it a Death Care Rule and subject all segments of the industry to consumer friendly rules and regulations.

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